

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Megan McCurdy	Team: Squad #13	CCRB Case #: 202302857	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/31/2023 5:00 PM, Friday, 03/31/2023 5:30 PM	Location of Incident: Outside § 87(2)(b) 52nd Precinct stationhouse	18 Mo. SOL 9/30/2024	Precinct: 52
Date/Time CV Reported Wed, 04/05/2023 3:30 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 04/05/2023 3:30 PM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Jonathan Baptiste	22798	970985	052 PCT
2. PO Yildy Perezmorales	18300	968069	BX COURT
3. PO Greeily Lopezbruno	16899	969913	052 PCT
4. PO Xavier Martinez	18045	975278	052 PCT
5. Officers			052 PCT
6. An officer			052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Kwame Pascal	00000	947325	052 PCT
2. PO Patrick Sayegh	17010	970193	052 PCT
3. PO Alfonso Mendez	07899	939017	052 PCT
4. PO Mdrubel Azad	01450	961494	052 PCT
5. PO Elvis Hidaigorodriguez	19257	968491	052 PCT
6. SGT Waikiria Velez	02645	934242	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Jonathan Baptiste	Abuse: Police Officer Jonathan Baptiste entered § 87(2)(b) in The Bronx.	
B . PO Yildy Perezmorales	Abuse: Police Officer Yildy Perezmorales entered § 87(2)(b) in The Bronx.	
C . PO Jonathan Baptiste	Force: At § 87(2)(b) in the Bronx, Police Officer Jonathan Baptiste used physical force against § 87(2)(b)	
D . PO Yildy Perezmorales	Force: Police Officer Yildy Perezmorales used physical force against § 87(2)(b)	
E . PO Jonathan Baptiste	Abuse: At § 87(2)(b) in the Bronx, Police Officer Jonathan Baptiste damaged § 87(2)(b) property.	
F . Officers	Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G . PO Jonathan Baptiste	Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste used physical force against § 87(2)(b)	
H . PO Greeily Lopezbruno	Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Greeily Lopez-Bruno used physical force against § 87(2)(b)	
I . PO Xavier Martinez	Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Xavier Martinez used physical force against § 87(2)(b)	
J . PO Jonathan Baptiste	Abuse: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste threatened § 87(2)(b) with the use of force.	
K . PO Jonathan Baptiste	Abuse: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste improperly used his body-worn camera.	
L . An officer	Abuse: At the 52nd Precinct stationhouse in the Bronx, an officer seized § 87(2)(b) property.	

Case Summary

On April 5, 2023, § 87(2)(b) filed this complaint with the CCRB via email (BR 01).

On March 31, 2023, at approximately 5:00 P.M., Police Officers Jonathan Baptiste and Yildy Perez-Morales of the 52nd Precinct entered § 87(2)(b) apartment at § 87(2)(b) in the Bronx after she had allegedly violated an order of protection (**Allegations A and B: Abuse of Authority – Entry of Premises**, § 87(2)(g)). PO Baptiste and PO Perez-Morales pushed and pulled § 87(2)(b) in the process of handcuffing her, and PO Baptiste performed a forcible takedown on § 87(2)(b) (**Allegation C and D: Force – Physical Force**, § 87(2)(g)). PO Baptiste cut the straps of § 87(2)(b) drawstring bag with a knife (**Allegation E: Abuse of Authority – Property Damaged**, § 87(2)(g)). Officers allegedly threw § 87(2)(b) into a police vehicle (**Allegation F: Force – Physical Force**, § 87(2)(g)). § 87(2)(b) was arrested for criminal contempt in the first degree, resisting arrest, and harassment in the second degree (BR 02).

At approximately 5:30 P.M., the officers transported § 87(2)(b) to the 52nd Precinct stationhouse. PO Baptiste allegedly dragged § 87(2)(b) into the stationhouse (**Allegation G: Force – Physical Force**, § 87(2)(g)). Police Officers Greeily Lopez-Bruno and Xavier Martinez of the 52nd Precinct carried § 87(2)(b) into a holding cell (**Allegations H and I: Force – Physical Force**, § 87(2)(g)). While § 87(2)(b) was inside the holding cell, PO Baptiste pointed his Taser at her twice without activating his body-worn camera (BWC) (**Allegation J and K: Abuse of Authority – Threat of Force, Improper Use of BWC**, § 87(2)(g)). An officer allegedly seized § 87(2)(b) apartment building key fob and did not return it to her (**Allegation L: Abuse of Authority – Seizure of Property**, § 87(2)(g)).

The investigation received BWC footage recorded by PO Baptiste (BR 03), PO Perez-Morales (BR 04), Police Officer Patrick Sayegh (BR 05), and six other officers assigned to the 52nd Precinct. The investigation also received surveillance footage from the 52nd Precinct stationhouse which captures § 87(2)(b) holding cell and the holding cell area entrance (BR 06).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Jonathan Baptiste entered § 87(2)(b) in The Bronx.

Allegation (B) Abuse of Authority: Police Officer Yildy Perezmorales entered § 87(2)(b) in The Bronx.

Allegation (C) Force: At § 87(2)(b) in the Bronx, Police Officer Jonathan Baptiste used physical force against § 87(2)(b).

Allegation (D) Force: At § 87(2)(b) in the Bronx, Police Officer Yildy Perezmorales used physical force against § 87(2)(b).

Allegation (E) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Jonathan Baptiste damaged § 87(2)(b) property.

Allegation (F) Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b).

Allegation (G) Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste used physical force against § 87(2)(b).

Allegation (H) Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Greeily Lopez-Bruno used physical force against § 87(2)(b).

Allegation (I) Force: At the 52nd Precinct stationhouse in the Bronx, Police Officer Xavier

Martinez used physical force against § 87(2)(b)

§ 87(2)(b) (BR 08) stated that her mother called 911 because § 87(2)(b) fiancé, § 87(2)(b) put his hands on § 87(2)(b) may have also called 911 himself. § 87(2)(b) waited outside her apartment building for the officers. PO Baptiste and PO Perez-Morales arrived, did not speak to § 87(2)(b) and immediately went up to § 87(2)(b) apartment. § 87(2)(b) waited a little while, then took the stairs to her floor and listened to the conversation between the officers and § 87(2)(b) said § 87(2)(b) was telling people that he raped her, that he had an order of protection against § 87(2)(b) and that § 87(2)(b) was the person on the lease. PO Perez-Morales and PO Baptiste walked into the apartment, leaving the door cracked. At no point did either officer ask § 87(2)(b) or § 87(2)(b) for their consent to enter the apartment. § 87(2)(b) then waited for the officers outside. PO Perez-Morales and PO Baptiste exited the apartment building and walked right past § 87(2)(b) got the officers' attention and spoke to PO Perez-Morales for approximately two minutes. PO Baptiste told § 87(2)(b) that she was under arrest and handcuffed her with PO Perez-Morales. PO Baptiste pushed § 87(2)(b) arms behind her, which caused her to fall onto the ground. She was unable to catch herself, and the left side of her head hit the ground and became swollen. PO Baptiste kept telling § 87(2)(b) to calm down, even though § 87(2)(b) was calm when speaking to PO Perez-Morales. During this struggle, § 87(2)(b) asked why PO Baptiste was touching her and why she was being arrested, as she did not do anything. § 87(2)(b) said she wanted to call her mother and her attorney, told PO Baptiste to get off her, and kept repeating that this was not right. After § 87(2)(b) was handcuffed, PO Baptiste cut off her knapsack. Officers threw § 87(2)(b) into a patrol vehicle head-first. As the officers closed the vehicle door, § 87(2)(b) hit the right side of her head on the window. Officers drove § 87(2)(b) to the 52nd Precinct stationhouse, where PO Baptiste dragged her into the stationhouse. § 87(2)(b) went limp until she was inside the stationhouse near the flag, where the officers assisted her in standing up and escorted her into a holding cell.

Per police radio communications (BR 07), at runtime 00:15, central dispatch transmitted a job at § 87(2)(b) in the Bronx regarding a violation of an order of protection.

The following BWC footage is presented in chronological order for the purpose of clarity:

Per PO Perez-Morales's BWC footage (BR 04), at runtime 00:58, PO Baptiste and PO Perez-Morales approach the door to § 87(2)(b) § 87(2)(b) answers the door, confirms he called 911, and says he has a full-stay order of protection against § 87(2)(b) who is not currently present, but has been at the apartment for the last three to four days harassing him. At 01:51, he shows the officers the order of protection on his phone. At 02:52, § 87(2)(b) says he is not on the lease, and that it is § 87(2)(b) apartment, but he has lived in the apartment for two years. At 03:19, § 87(2)(b) says, "Y'all can come in." The officers enter the apartment. Between 03:30 and 11:01, the officers speak with § 87(2)(b) in the living area about how § 87(2)(b) has been harassing him and violating the order of protection. At 11:11, the officers leave the apartment. At 12:17, the officers encounter § 87(2)(b) outside the apartment building and speak with her. At 16:10, PO Perez-Morales tells § 87(2)(b) she has to come with them because she violated § 87(2)(b) order of protection. At 16:31, PO Baptiste tells § 87(2)(b) to put her hands behind her back and grabs her right wrist with his left hand. PO Perez-Morales uses both hands to grab § 87(2)(b) left forearm. § 87(2)(b) yells, "I live here," multiple times. At 16:50, PO Baptiste tries to pull § 87(2)(b) right forearm behind her back, and she tenses her arm and attempts to pull it away from PO Baptiste's grasp. At 16:59, PO Baptiste slowly pushes § 87(2)(b) body backwards using one hand so that her back is against the apartment building's front door. § 87(2)(b) repeatedly tells the officers to stop touching her. At 17:02, PO Baptiste

is still holding onto § 87(2)(b) right wrist, which she is holding against her torso, and she lifts her wrist up and backward. At 17:04, PO Baptiste places pressure against § 87(2)(b) right arm to place it behind her back but is unable to do so because she is tensing her arm and continues lifting her forearm in the opposite direction. At 17:16, PO Perez-Morales uses one hand to grab § 87(2)(b) left elbow and the other to hold onto her left wrist. PO Baptiste now has § 87(2)(b) right arm behind her back, and while holding onto that arm, he uses his body to push her against the apartment building door. PO Perez-Morales releases her grip on § 87(2)(b) left arm. At 17:23, PO Perez-Morales grabs § 87(2)(b) left arm and attempts to pull it behind § 87(2)(b) back, but § 87(2)(b) tenses her arm and tries to pull it away from PO Perez-Morales. § 87(2)(b) moves her torso back and forth as the officers try to bring her hands behind her back.

Per PO Baptiste's BWC footage (**BR 03**), at runtime 17:26, § 87(2)(b) bends her right knee and lifts it up as it is pressed against the apartment building's front door. At 17:35, as the officers try to pull § 87(2)(b) away from the door, she appears to step back toward the door, as visible in the reflection.

Per PO Perez-Morales' BWC footage (**BR 04**), at runtime 17:36, each officer holds onto one of § 87(2)(b) arms and pulls her away from the door and toward the sidewalk. § 87(2)(b) flails her legs, which makes it difficult for the officers to walk with her. Simultaneously in PO Baptiste's BWC footage (**BR 03**), at 17:38, PO Baptiste tries to pull § 87(2)(b) right wrist behind her back, and she pulls her hand in the opposite direction and continues to yell for the officers to stop.

Per PO Perez-Morales' BWC footage (**BR 04**), at runtime 17:38, PO Baptiste uses his right leg to sweep § 87(2)(b) right leg, and she drops onto her right knee. § 87(2)(b) keeps her left leg straight out and to her left.

Per PO Baptiste's BWC footage (**BR 03**), at runtime 17:40, PO Baptiste releases his grasp on § 87(2)(b) right arm, and she falls to the ground. It is not clear in either officer's BWC footage whether § 87(2)(b) head hits the ground when she falls.

Per PO Perez-Morales' BWC footage (**BR 04**), at 17:41, PO Perez-Morales continues to hold onto § 87(2)(b) left arm as she falls to the ground and tries to pull § 87(2)(b) left arm out from underneath § 87(2)(b) body. Simultaneously in PO Baptiste's BWC footage (**BR 03**), at 17:42, PO Baptiste tries to pull § 87(2)(b) left arm behind her back and continues to tell § 87(2)(b) to give him her hand. At 17:44, § 87(2)(b) is tensing her arms and holding them under her chest. At 17:48, § 87(2)(b) flails her right arm as PO Baptiste is holding onto it. § 87(2)(b) then lifts her right leg from a kneeling position to a position where her right foot is flat on the ground. At 17:55, the officers lift § 87(2)(b) to her feet and walk her toward a parked car. At 18:00, PO Baptiste says to put § 87(2)(b) against the car. At 18:02, § 87(2)(b) says, "You banged my head on the floor." PO Baptiste says, "Because you won't give me your hands." The officers then hold § 87(2)(b) body against the side of the parked car. At 18:22, § 87(2)(b) tells PO Baptiste to get off her, and her body moves in such a way that causes PO Baptiste's BWC to fall to the ground. § 87(2)(b) is still not handcuffed. At 18:25, § 87(2)(b) torso is away from the parked car, and PO Baptiste uses his body weight to push her torso back against the parked car. At 18:37, PO Baptiste uses his right arm, which is linked with § 87(2)(b) right arm, to attempt to pull § 87(2)(b) arm behind her back, but § 87(2)(b) is tensing her right arm and holding it close to her body. PO Baptiste continues to tell § 87(2)(b) to give him her hands. At 18:57, PO Baptiste handcuffs § 87(2)(b) right wrist, at which point additional officers arrive on scene and assist in handcuffing her. At 19:40, Police Officer Mdrubel Azad of the 52nd Precinct tells PO Baptiste to "check the bag real quick."

PO Baptiste moves the strap of § 87(2)(b) black drawstring bag from her left shoulder toward her handcuffed wrists. He tries to untie the strap of the drawstring bag for approximately 20 seconds as § 87(2)(b) continues to yell about how she lives in the apartment and that she did not do anything wrong. At 20:07, PO Baptiste says, “I’m just going to cut this off.” Per PO Sayegh’s BWC footage (**BR 05**), at 02:24, PO Baptiste uses a knife to cut the straps of the drawstring bag and removes the bag from § 87(2)(b) person. § 87(2)(b) asks why the officers destroyed her property. Per PO Baptiste’s BWC footage (**BR 03**), at 20:28, PO Lopez-Bruno takes the bag from PO Baptiste and puts § 87(2)(b) cell phone inside.

Per PO Sayegh’s BWC footage (**BR 05**), at runtime 02:41, PO Baptiste, PO Sayegh, PO Azad hold onto § 87(2)(b) arms as they escort her toward a police vehicle. At 02:47, PO Sayegh, PO Azad, and PO Baptiste let go of § 87(2)(b) as she independently enters the back seat of the police vehicle.

Per PO Perez-Morales’ BWC footage (**BR 04**), at runtime 21:25, PO Baptiste and PO Perez-Morales transport § 87(2)(b) to the 52nd Precinct stationhouse. At 25:11, § 87(2)(b) exits the back seat of the police vehicle independently, and PO Lopez-Bruno and PO Perez-Morales each hold one of her arms as she walks into the stationhouse. PO Baptiste does not touch § 87(2)(b) as she is being escorted into the stationhouse. At 28:32, PO Martinez and PO Lopez-Bruno escort § 87(2)(b) toward the holding cells by holding one arm each as § 87(2)(b) walks. At 28:38, § 87(2)(b) stomps and braces her body against the floor as the officers escort her into the holding cell area. At 28:43, § 87(2)(b) goes limp and drops toward the floor. The officers tell her to get up. At 28:51, PO Lopez-Bruno and PO Martinez carry § 87(2)(b) by her arms as she drags her feet on the floor. At 29:24, § 87(2)(b) walks into the holding cell and then yells, cries, and stomps on the floor. At 30:07, PO Perez-Morales tells § 87(2)(b) she will come speak with her later and turns around to exit the room. At 30:11, there are three loud bangs as PO Perez-Morales deactivates her BWC, prompting PO Lopez-Bruno to turn back to face § 87(2)(b).

PO Baptiste’s (**BR 09**) statement was generally consistent with the BWC footage. PO Baptiste stated that when he and PO Perez-Morales began to place § 87(2)(b) under arrest, she started fighting them by tensing her arms and not allowing the officers to place her hands behind her back to be handcuffed. PO Baptiste and PO Perez-Morales were unsuccessful in handcuffing her, so he called for backup. PO Baptiste attempted to put § 87(2)(b) on the ground (an action which he classified as a forcible takedown) to make it easier to handcuff her, but § 87(2)(b) managed to stand back up. PO Baptiste ultimately handcuffed § 87(2)(b). At one point, PO Baptiste pushed § 87(2)(b) against a vehicle to prevent her from moving. § 87(2)(b) had been moving her legs from side to side and tensing her body in an attempt to get away from officers. After being handcuffed, § 87(2)(b) still wore a bag, and PO Baptiste cut the strap of the bag off with his knife. PO Baptiste noted that § 87(2)(b) had already fought officers, that he did not know what was in the bag that could potentially cause harm to officers, and that officers cannot place a handcuffed person in the back of a police vehicle with a bag on. There was no other way for PO Baptiste to remove the bag from § 87(2)(b) person.

PO Perez-Morales’ (**BR 10**) statement was generally consistent with the BWC footage and PO Baptiste’s statement.

Per *People v. Cosme*, 48 N.Y.2d 286 [1979] (**BR 30**), officers may conduct a warrantless search of a premises if consent was voluntarily obtained from an individual who possesses a common right of access to or control over the premises.

Per Georgia v. Randolph, 547 U.S. 103 [2006] (BR 12), officers may not conduct a warrantless search of a shared dwelling on the basis of consent given by one resident “over the express refusal of consent by a physically present resident.”

Per People v. Gonzalez, 39 N.Y.2d 122 [1976] (BR 13), “consent to search is voluntary when it is a true act of will, an unequivocal product of an essentially free and unconstrained choice.”

Given that § 87(2)(b) told officers that he had lived in the apartment for two years, and that § 87(2)(b) was not present to refuse the officers entry, § 87(2)(g) [REDACTED]

Per NYPD Patrol Guide Procedure 221-01 (BR 14), force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances, and de-escalation must be prioritized whenever possible. Members of service must consider the following criteria regarding the reasonable use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject’s violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(b) physically resisted the officers’ attempts to handcuff her by tensing and flailing her arms, moving her torso, and pulling away from the officers. § 87(2)(g) [REDACTED]

[REDACTED] that § 87(2)(b) went limp when PO Lopez-Bruno and PO Martinez attempted to escort her to the holding cells, § 87(2)(g) [REDACTED]

§ 87(2)(b) alleged that officers threw her into the back of a police vehicle before removing her to the stationhouse, and then PO Baptiste dragged her into the stationhouse. However, BWC footage shows that § 87(2)(b) entered the police vehicle independently without any force used by any officers. Additionally, BWC footage shows that § 87(2)(b) walked into the stationhouse escorted by PO Perez-Morales and PO Lopez-Bruno, not PO Baptiste, and that § 87(2)(b) walked into the stationhouse without being dragged. § 87(2)(g) [REDACTED]

Per NYPD Patrol Guide Procedure 208-03 (BR 32), after an individual has been arrested and handcuffed, officers should immediately conduct a field frisk or search of the individual and search the adjacent vicinity for weapons, evidence, and/or contraband.

Per NYPD Patrol Guide Procedure 208-05 (BR 31), a field frisk is performed immediately after apprehension to ensure the safety of the arresting officer and find weapons, evidence, or contraband. If an unusual object is detected during the frisk, the officer will remove it. Once at the

police facility, weapons, contraband, and evidence not discovered by the field frisk, as well as other items lawfully carried by the individual but are dangerous to life, may facilitate escape, or may be used to damaged Department property will also be removed from the individual.

Per *Onderdonk v. State*, 170 Misc. 2d 155 [1996] (BR 15), officers may damage property when it is reasonably necessary to carry out their duties.

At the time of her arrest, § 87(2)(b) was wearing a drawstring bag that was unable to be removed without first removing her handcuffs. PO Baptiste stated that he needed to remove § 87(2)(b) bag from her person because she had already fought officers, he did not know what was in the bag that could potentially harm officers, and officers cannot place a handcuffed person in the back of a police vehicle with a bag. Patrol Guide Procedures 208-03 and 208-05 authorize officers to perform a field frisk/search for weapons, evidence, and/or contraband immediately upon apprehension for the purpose of officer safety. However, PO Baptiste did not attempt to perform a field frisk/search of § 87(2)(b) bag prior to removing it from her person. Given that PO Baptiste did not make an effort to frisk or search the bag prior to removing it, and Patrol Guide Procedure 208-05 states that officers have the opportunity at the stationhouse to remove lawfully carried items that are dangerous to life, may facilitate escape, or may be used to damage Department property, § 87(2)(g)

Allegation (J) Abuse of Authority: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste threatened § 87(2)(b) with the use of force.

Allegation (K) Abuse of Authority: At the 52nd Precinct stationhouse in the Bronx, Police Officer Jonathan Baptiste improperly used his body-worn camera.

§ 87(2)(b) (BR 08) stated that while she was inside the holding cell, she started banging on the cell bars and wall. Officers returned to the holding cell, handcuffed her, and shackled her legs. Approximately five minutes after she was lodged in the holding cell, PO Baptiste entered the cell, and PO Perez-Morales stood in the holding cell doorway with approximately four male officers. § 87(2)(b) did not recall if PO Baptiste said anything when he approached the holding cell. § 87(2)(b) backed away from him. PO Baptiste said, “You want me to tase you?” § 87(2)(b) told him not to tase her. PO Baptiste drew his Taser when he was approximately four feet away from § 87(2)(b) pointed it at her, and made it “spark.” § 87(2)(b) told PO Baptiste not to tase her because she was handcuffed, not doing anything wrong, and did not threaten him. PO Perez-Morales yelled, “Jonathan,” and PO Baptiste left.

Per stationhouse footage from § 87(2)(b) holding cell and the holding cell area entrance (BR 06), at runtime 13:30, § 87(2)(b) jumps up and down in the cell multiple times while handcuffed and appears upset. At 13:47, PO Baptiste stands in the holding cell area entrance doorway. At 14:13, § 87(2)(b) throws her body against the cell bars as PO Lopez-Bruno, PO Perez-Morales, and PO Martinez walk away. She then throws her body against the cell walls four times, and the officers turn back around. § 87(2)(b) appears to yell at the officers, and PO Lopez-Bruno and PO Perez-Morales appear to speak with her. At 14:26, PO Baptiste approaches § 87(2)(b) cell, and she appears to say something to him. At 17:03, PO Baptiste appears to speak with § 87(2)(b) from outside the cell, and § 87(2)(b) begins jumping up and down multiple times. At 19:40, § 87(2)(b) sits on the bench and rocks back and forth. At 20:04, PO Baptiste waves his left fingers as if to tell § 87(2)(b) to come to him. § 87(2)(b) stands in front of the cell door with her back turned to the door. At 20:14, PO Baptiste unlocks the cell door and removes § 87(2)(b) handcuffs. At 21:19, the officers close and lock § 87(2)(b)

cell door. At 21:29, § 87(2)(b) jumps up and down. At 21:53, all the officers leave the holding cell area except PO Baptiste, and he continues to speak with § 87(2)(b). At 24:18, PO Baptiste exits the holding cell area. Between 25:03 and 26:52, § 87(2)(b) bangs on a cell wall with both hands, jumps, yells, slams her palms onto the bench, grabs onto the cell bars and tries to shake them, and kicks the wall. At 26:52, PO Baptiste enters the holding cell area and appears to say something to § 87(2)(b). At 26:57, § 87(2)(b) slams her palms against the cell walls, then stands on the bench and uses a closed fist to bang on the overhead light on the ceiling multiple times. She gets down from the bench and appears to yell at PO Baptiste. § 87(2)(b) then waves both arms back and forth as if to get someone's attention. At 27:30, PO Perez-Morales enters the holding cell area with another male officer. PO Baptiste opens § 87(2)(b) cell door and gestures as if to tell § 87(2)(b) to come to him. He then reaches for § 87(2)(b) right arm as he appears to say something, and she backs up and stops waving her arms. At 27:34, as he stands in the threshold of the cell door and appears to speak, PO Baptiste points his Taser and shines the laser dot on § 87(2)(b) torso. § 87(2)(b) starts to wave both arms again. At 27:38, PO Baptiste lowers his Taser. § 87(2)(b) stops waving her arms and puts them behind her back while PO Baptiste points his Taser at her lower stomach above her pelvic area. At 27:45, the laser dot is pointed at § 87(2)(b) pelvic area. At 27:47, the laser dot is pointed at § 87(2)(b) genital area, and PO Baptiste appears to be speaking. At 27:48, the laser dot is lowered and no longer visible, and PO Baptiste and PO Perez-Morales walk toward § 87(2)(b) inside the cell. § 87(2)(b) appears to look down at PO Baptiste's Taser, which is no longer pointed at her, takes a few steps to the left, and moves her torso away from PO Baptiste. At 27:51, PO Baptiste and PO Perez-Morales grab § 87(2)(b) right arm. PO Baptiste pushes § 87(2)(b) against the cell bars with her hands behind her back. At 27:54, § 87(2)(b) moves her torso and head from side to side as PO Baptiste, PO Perez-Morales, and three other officers handcuff her. At 28:25, PO Perez-Morales appears to say something over the radio. At 29:12, the officers put § 87(2)(b) in leg shackles. At 29:41, the officers exit the holding cell as § 87(2)(b) appears to say something to them. At 29:55, all three officers exit the holding cell area. § 87(2)(b) continues to act how she has been acting throughout the beginning of the footage (e.g., appearing to yell, pacing, kicking cell walls).

At 30:22, PO Baptiste draws his Taser as he enters the holding cell area. He then immediately points his Taser at § 87(2)(b) upper chest and appears to say something to her. § 87(2)(b) walks backwards and to her left, and PO Baptiste continues to point his Taser at her as she moves. § 87(2)(b) appears to say something to him. At 30:27, PO Perez-Morales and a male officer stand in the doorway of the holding cell area watching the interaction between PO Baptiste and § 87(2)(b). The laser dot is pointed at § 87(2)(b) right upper arm. At 30:30, § 87(2)(b) moves again, and the laser dot is now pointed at her torso. PO Baptiste then lowers his Taser so that it is no longer pointed at § 87(2)(b). At 30:32, PO Baptiste turns and walks away from the cell as § 87(2)(b) continues to appear to yell at him. Simultaneously, PO Perez-Morales puts her left palm up, so it is facing PO Baptiste and § 87(2)(b) and appears to say something. PO Baptiste appears to say something to PO Perez-Morales. At 30:35, PO Baptiste turns back around to face § 87(2)(b) and they appear to speak to each other. At 30:41, PO Baptiste holsters his Taser and turns to walk out of the holding cell area. At 30:44, § 87(2)(b) kicks the cell wall. PO Baptiste turns back around, re-draws his Taser, and re-approaches § 87(2)(b) cell. At 30:46, Sergeant Waikiria Velez of the 52nd Precinct enters the holding cell area, appears to say something to PO Baptiste, and waves her right hand toward herself in a "give me" gesture. PO Baptiste immediately hands his Taser to Sgt. Velez. § 87(2)(b) appears to yell after PO Baptiste as he and Sgt. Velez exit the holding cell area.

A request for BWC footage recorded at the 52nd Precinct stationhouse related to this incident yielded no BWC videos recorded after § 87(2)(b) was lodged in the holding cell (BR 16).

PO Baptiste (**BR 09**) stated that § 87(2)(b) was acting erratically in the holding cells; she was punching the light fixtures on the ceiling, kicking, and riling up the other prisoners, which presented a risk to § 87(2)(b) herself. If the glass light fixture was to fall, for example, § 87(2)(b) would be injured, or if she continued to kick the cells, she may have broken her leg. The other prisoners “started screaming and going crazy,” because of § 87(2)(b) conduct. PO Baptiste went back into the holding cell area to handcuff her again for her safety. PO Baptiste asked § 87(2)(b) to calm down multiple times and pointed his Taser at her while he stood outside the cell. After reviewing the stationhouse footage, PO Baptiste stated that he was actually inside the holding cell the first time he pointed his Taser. He removed the cartridge and deployed a warning arc to gain compliance from § 87(2)(b) and get her to calm down. PO Baptiste never said anything to the effect of, “Do you want me to Tase you?,” or otherwise verbally threatened to deploy a Taser against her. As a result of this, § 87(2)(b) immediately calmed down and started to comply. PO Baptiste did not recall if he ever pointed his Taser at § 87(2)(b) genital area. However, upon review of stationhouse footage, PO Baptiste acknowledged that the laser was pointed near § 87(2)(b) genital area while noting that, at this time, he had been trying to have a conversation with § 87(2)(b) to calm her down and was not paying attention to where the Taser was pointed.

A couple minutes later, after § 87(2)(b) again started kicking the cells, making loud noises each time, the other prisoners told officers to get § 87(2)(b) out of the cells. PO Baptiste re-entered the holding cell area, drew his Taser, told § 87(2)(b) repeatedly to calm down again, and pointed his Taser at § 87(2)(b). PO Baptiste did not recall where he pointed his Taser or if he used a warning arc this time. PO Baptiste pointed his Taser anew to gain compliance from § 87(2)(b) and get her to calm down. PO Baptiste believed § 87(2)(b) was still uncuffed inside the cell, but upon reviewing the stationhouse footage, PO Baptiste clarified that § 87(2)(b) was actually handcuffed when he pointed his Taser at her a second time. PO Baptiste noted that while officers cannot deploy their Tasers against handcuffed prisoners, officers can point their Tasers at handcuffed prisoners for compliance. PO Baptiste noted that § 87(2)(b) was still kicking and screaming when he pointed his Taser a second time. At no point did other officers say anything to PO Baptiste or direct him to stop when he was pointing his Taser at § 87(2)(b). PO Baptiste stated that PO Perez-Morales gesturing with her palm up was accompanied by her telling § 87(2)(b) to calm down. Sgt. Velez took PO Baptiste’s Taser away from him and told him to leave § 87(2)(b) alone and just call for an ambulance because § 87(2)(b) was a threat to herself. PO Baptiste acknowledged that he did not activate his BWC during either period when he pointed his Taser at § 87(2)(b) because the incident was already being recorded by cell cameras, so he did not believe that he needed to activate his BWC during this timeframe.

PO Perez-Morales (**BR 10**) did not have an independent recollection of PO Baptiste pointing his Taser at § 87(2)(b) inside the stationhouse. However, she did see PO Baptiste do so in the stationhouse footage shown to her by the investigation. She did not recall if PO Baptiste said anything to § 87(2)(b) or gave § 87(2)(b) any warnings prior to pointing his Taser at her. PO Perez-Morales did not know why PO Baptiste pointed his Taser at § 87(2)(b) and did not recall hearing PO Baptiste say to § 87(2)(b) “You want me to tase you?” PO Perez-Morales did not recall what she was saying at the time she gestured with her palm out, but she was probably trying to calm § 87(2)(b) down because she was yelling too much.

NYPD Patrol Guide Procedure 221-08 (BR 17) states that a conducted electrical weapon (CEW) “should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. It will often reduce the potential for injuries to members and suspects that may result from physical

restraint and should be regarded as a possible alternative to such force and restraint, where practical.” The purpose of using laser warnings and warning arcs (displays of visible and audible arcing of electricity between the Taser’s front electrodes) is to gain voluntary compliance from the subject. When feasible, a verbal warning, consistent with personal safety, should be given to the intended subject in conjunction with a laser warning or a warning arc. CEW effectiveness is characterized by “[a]ny immediate reaction, even if momentary, that causes a change in an actively aggressive subject’s or emotionally disturbed person’s physical actions and/or psychological behavior as the result of a pre-deployment verbal warning, activation, laser warning, warning arc, or discharge. CEWs should never be intentionally aimed at an individual’s groin, and “[a] CEW should never be used in cartridge or drive stun mode on a rear-cuffed prisoner.”

The first time PO Baptiste pointed his Taser at § 87(2)(b) § 87(2)(g) she was not handcuffed and exhibiting behaviors that posed a danger to herself (e.g., kicking the wall, throwing her body against the wall and cell bars, and banging on the wall, ceiling light, and bench) for approximately 15 minutes. However, the second time PO Baptiste pointed his Taser at § 87(2)(b) § 87(2)(g) § 87(2)(g) she was not exhibiting the same dangerous behaviors listed above, and she was rear-cuffed and leg shackled, which diminished her ability to hurt herself. § 87(2)(g)

NYPD Patrol Guide Procedure 212-123 (BR 18) states that officers are required to activate their BWCs prior to engaging in any police action. Police action is “any police service, as well as law enforcement or investigatory activity conducted in furtherance of official duties. Police action includes responding to calls for service, addressing quality of life conditions, handling pick-up assignments and any self-initiated investigative or enforcement actions such as witness canvasses, vehicle stops and Investigative Encounters.” Officers are required to “record any interactions that escalate to become adversarial or may hold evidentiary value.”

§ 87(2)(g)

Allegation (L) Abuse of Authority: At the 52nd Precinct stationhouse in the Bronx, an officer seized § 87(2)(b) property.

§ 87(2)(b) (BR 08) stated that when she was arrested, she had her apartment key fob on her. However, when she retrieved her property, the key fob was not returned or listed on the property voucher.

In BWC footage § 87(2)(b) recorded by Police Officer Brandon Torres of the 52nd Precinct during an unrelated incident on January 30, 2023 (BR 19), between runtimes 00:42 and 00:47, a resident of § 87(2)(b) opens the front door of the building using a black, dome-shaped key fob. An enlarged screenshot of the key fob was taken at runtime 00:42 (BR 20).

Per PO Perez-Morales’ BWC footage (BR 04), at runtime 19:54, PO Perez-Morales removes an

interconnected set of keys from § 87(2)(b) coat pocket. While every item included in this set of keys is not visible, the set of keys includes at least three metal key rings, two rectangular metal key chains, an ovular metal key chain, a plastic black rectangular object, and one standard metal key. At 19:56, PO Perez-Morales puts the entire set of keys back into the same pocket. At 27:07, PO Perez-Morales removes the same set of keys from the same pocket at the stationhouse. At 27:12, PO Perez-Morales places the entire set of keys into a clear property bag. No key fob resembling the key fob captured in PO Torres' BWC footage is visible within § 87(2)(b) set of keys, especially in the enlarged screenshots from PO Perez-Morales' BWC footage of § 87(2)(b) set of keys at runtimes 19:54 (BR 21), 27:15 (BR 22), and 27:23 (BR 23).

Per surveillance footage from the 52nd Precinct stationhouse desk (BR 24), between runtime 11:15, when PO Perez-Morales removes § 87(2)(b) set of keys from her coat pocket and puts them in the property bag, and runtime 50:24, when PO Perez-Morales takes the property bag into another room in the stationhouse, no officer removes any property from property bag.

Per Property Voucher #§ 87(2)(b) PO Perez-Morales vouchered three multi-colored house keys and two multicolored keychain holders for safekeeping. There is no mention of a key fob. § 87(2)(b) property was returned to her on April 2, 2023.

PO Perez-Morales (BR 04) did not recall seeing a key fob on § 87(2)(b) person. At the stationhouse, PO Perez-Morales searched § 87(2)(b) removed whatever property was on her person, and vouchered the property. PO Perez-Morales was unaware of any other officer accessing § 87(2)(b) property once it was put into safekeeping. PO Perez-Morales did not remove a key fob from § 87(2)(b) property without returning it to her. PO Perez-Morales only vouchered the keys and did not know what fob § 87(2)(b) was referring to. PO Perez-Morales stated that whatever keys were captured on BWC footage were vouchered.

PO Baptiste (BR 09) did not recall seeing a key fob among § 87(2)(b) property. PO Baptiste noted that a key fob would likely be noted as one key on a property voucher with a note stating that it was a fob (PO Baptiste used an alternative example as a means of explanation: a keychain with five keys on it would be vouchered as "five keys"). PO Baptiste was not involved in preparing any vouchers for a key fob during this incident. PO Baptiste did not recall if he or any other officer removed a key fob off § 87(2)(b) person.

Given that BWC footage does not capture a key fob resembling the one used by another resident of the building on § 87(2)(b) person at the time of the arrest and does not show a clear view of all of the items on § 87(2)(b) set of keys, and that neither PO Baptiste and PO Perez-Morales specifically recalled a key fob being in § 87(2)(b) possession, the investigation could not determine whether or not § 87(2)(b) was in possession of the key fob to her apartment building at the time of her arrest. However, BWC footage and stationhouse footage show that no officer removed any item from § 87(2)(b) set of keys, at least up until PO Perez-Morales removed § 87(2)(b) property bag from the desk area and stored it elsewhere in the stationhouse. Given the lack of video footage exhaustively capturing the whereabouts of § 87(2)(b) property or who may have accessed the property, and that § 87(2)(b) arresting officer, PO Perez-Morales, denied seizing § 87(2)(b) key fob, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
- PO Baptiste has been a member of service for three years and has been a subject in two other CCRB complaints and four other allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
- PO Perez-Morales has been a member of service for four years and has been a subject in one other CCRB complaint and four other allegations, of which three were substantiated.:
 - § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - § 87(2)(g) [REDACTED]
[REDACTED]
- PO Lopez-Bruno has been a member of service for three years and has been a subject in seven other CCRB complaints and 10 other allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
- PO Martinez has been a member of service for one year and has been a subject in one other CCRB complaint and two other allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming that she was illegally stopped, searched, and arrested, false imprisonment, malicious prosecution, and excessive force, and is seeking \$1,000,000 as redress (BR 27) § 87(2)(b) [REDACTED]
[REDACTED]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 13

Investigator:	<u>Megan McCurdy</u>	<u>Inv. Megan McCurdy</u>	<u>06/03/2024</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>JP Lozada</u>	<u>IM Jean-Paul Lozada</u>	<u>06/04/2024</u>
	Signature	Print Title & Name	Date